

## REMARKS

This Application has been carefully reviewed in light of the Office Action mailed March 31, 2006. At the time of the Office Action, Claims 32-46 were pending in this Application. Claims 1-16 were cancelled without prejudice or disclaimer and Claims 17-31 were withdrawn. Claims 32-35, 37-40, and 43-46 were rejected. Claims 36, 41 and 42 were objected to. Claims 32-35 have been amended to further define various features of Applicants' invention. Claims 37 and 38 have been cancelled without prejudice. Applicants respectfully request reconsideration and favorable action in this case.

### Claim Objections

Claims 32-46 were objected to due to informalities. Applicants amend Claim 32 to overcome these objections.

### Rejections under 35 U.S.C. §103

Claims 32-35, 37-40 and 43-46 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,215,797 issued to Ronald D. Fellman et al. ("Fellman") in view of U.S. Patent 6,516,364 issued to Robert Kolblin et al. ("Kolblin"). Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Furthermore, according to § 2143 of the Manual of Patent Examining Procedure, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Applicants amended independent claim 32 to more clearly define the present invention. According to the present invention, the Fast-Ethernet network is used to establish time deterministic communication. Standard Fast-Ethernet and Ethernet networks are not designed to be time deterministic which is necessary in application as for example for automation processes. By creating a method as claimed in Claim 32 to use a Fast-Ethernet protocol to have a time deterministic behavior, real time communication is made possible. To this end a total cycle time is created and the slave units are synchronized to such cycles. Within each cycle, separate time slots for transmission and reception are assigned to each slave and master unit. This creates a very flexible system which allows for example an overlap of reception and transmission timeslots as shown in Fig. 3 of the present specification.

Fellman discloses a method to transmit time critical signals in real time over an Ethernet network. Fellman teaches that a total cycle ("frame") is divided into "phases." Each station is assigned to a phase. Only during a phase assigned to a station, that station may transmit data packets. Thus, Fellman discloses a fixed assignment of sequential phases within a frame, wherein synchronization is performed by a leading guard phase. However, Fellman does not assign separate timeslots for transmission and reception of telegrams as defined in the present independent claim 32.

Moreover, because Fellman already provides for a synchronization it is presently unclear why a person skilled in the art would combine Fellman with Koeblin to realize synchronization. However, as discussed above, Applicants believe that Fellman does not disclose the method as defined in the independent claim 32. Therefore, even if a person skilled in the art would combine Fellman and Koeblin, which Applicants do not concede, such a combination would still not lead to the method of the present independent claim 32.

Applicants respectfully submit that the dependent Claims are allowable at least to the extent of the independent Claim 32. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper.

**Information Disclosure Statement**

Applicants enclose an Information Disclosure Statement and PTO Form 1449, with a copy of the reference for the Examiner's review and consideration. Applicants authorize the Commissioner to charge the \$180.00 IDS fee to Deposit Account No. 50-2148 of Baker Botts L.L.P.

**Allowable Subject Matter**

Applicants appreciate Examiner's consideration and indication that Claims 35, 41, and 42 would be allowable if rewritten to overcome the rejections in the Office Action to include all of the limitations of the base claim and any intervening claims. Applicants appreciate the indication that these claims would be allowable. However, as stated above, Applicants believe that all pending claims as amended are now allowable.

**CONCLUSION**

Applicants have made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicants believe there are no additional fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2545.

Respectfully submitted,  
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